

HOUSE BILL NO. 32

INTRODUCED BY B. LAWSON

A BILL FOR AN ACT ENTITLED: "AN ACT ASSISTING SCHOOL DISTRICTS IN REDUCING DROPOUT RATES AND PROMOTING HIGH SCHOOL GRADUATION FOR ALL MONTANA STUDENTS BY INCLUDING IN THE CALCULATION OF AVERAGE NUMBER BELONGING AN ADULT WHO IS 19 ~~TO~~ OR ~~21~~ 20 YEARS OF AGE AND WHO IS ASSIGNED AND ADMITTED TO A SCHOOL AT THE DISCRETION OF THE TRUSTEES; CLARIFYING THE DEFINITION OF "PUPIL"; AMENDING SECTIONS 20-1-101, 20-5-101, AND 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(2) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

(3) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(4) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(5) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(6) "County superintendent" means the county government official who is the school officer of the county.

(7) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has

1 been employed by a district as a district superintendent.

2 (8) "K-12 vocational education" means vocational education in public school kindergarten through
3 grade 12.

4 (9) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an
5 applicable principal's endorsement that has been issued by the superintendent of public instruction under
6 the provisions of this title and the policies adopted by the board of public education and who has been
7 employed by a district as a principal. For the purposes of this title, any reference to a teacher must be
8 construed as including a principal.

9 (10) "Pupil" means a child who is ~~6 years of age or older on or before September 10 of the year~~
10 ~~in which the child is to enroll or has been enrolled by special permission of the board of trustees under~~
11 ~~20-5-101(3) but has not yet reached 19 years of age and who is enrolled~~ assigned and admitted under
12 the provisions of 20-5-101 ~~in~~ to a school established and maintained under the laws of the state at public
13 expense. ~~For purposes of calculating the average number belonging pursuant to 20-9-311, the definition~~
14 ~~of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is~~
15 ~~enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public~~
16 ~~expense.~~

17 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
18 schools while under the supervision of a teacher.

19 (12) "Regents" means the board of regents of higher education.

20 (13) "School food services" means a service of providing food for the pupils of a district on a
21 nonprofit basis and includes any food service financially assisted through funds or commodities provided
22 by the United States government.

23 (14) "State board of education" means the board composed of the board of public education and
24 the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

25 (15) "State university" means Montana state university-Bozeman.

26 (16) "Superintendent of public instruction" means that state government official designated as a
27 member of the executive branch by the Montana constitution.

28 (17) "System" means the Montana university system.

29 (18) "Teacher" means a person, except a district superintendent, who holds a valid Montana
30 teacher certificate that has been issued by the superintendent of public instruction under the provisions

1 of this title and the policies adopted by the board of public education and who is employed by a district
2 as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes
3 a person for whom an emergency authorization of employment has been issued under the provisions of
4 20-4-111.

5 (19) "Textbook" means a book or manual used as a principal source of study material for a given
6 class or group of students.

7 (20) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
8 to sell, or offering for adoption textbooks to districts in the state.

9 (21) "Trustees" means the governing board of a district.

10 (22) "University" means the university of Montana-Missoula.

11 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
12 employment that does not require a baccalaureate or higher degree. This definition of vocational education
13 includes guidance and prevocational, related, or technical instruction necessary to prepare the pupil for
14 further vocational education or for entry into employment.

15 (24) "Vocational-technical education" means vocational-technical education of vocational-technical
16 students that is conducted by a unit of the Montana university system or a community college, as
17 designated by the board of regents."

18
19 **Section 2.** Section 20-5-101, MCA, is amended to read:

20 **"20-5-101. Admittance of child to school.** (1) The trustees shall assign and admit a child to a
21 school in the district when the child is:

22 (a) 6 years of age or older on or before September 10 of the year in which the child is to enroll
23 but is not yet 19 years of age;

24 (b) a resident of the district; and

25 (c) otherwise qualified under the provisions of this title to be admitted to the school.

26 (2) The trustees of a district may assign and admit any nonresident child to a school in the district
27 under the tuition provisions of this title.

28 (3) The trustees may at their discretion assign and admit a child to a school in the district who
29 is under 6 years of age or an adult who ~~is 19 years of age or older~~ has not reached 22 21 years of age
30 by September 10 of the year in which the student is to enroll if there are exceptional circumstances that

1 merit waiving the age provision of this section.

2 (4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B.
3 McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of
4 residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless
5 child.

6 (5) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in
7 accordance with the tuition provisions of this title."

8

9 **Section 3.** Section 20-9-311, MCA, is amended to read:

10 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)
11 must be computed as follows:

12 (a) compute an average enrollment by adding a count of ~~regularly enrolled full-time pupils~~ pupils
13 assigned and admitted under 20-5-101 who were enrolled as of the first Monday in October of the prior
14 school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or
15 the next school day if those dates do not fall on a school day, and divide the sum by two; and

16 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the
17 pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide
18 by 180.

19 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved
20 pupil-instruction-related days may be included in the calculation.

21 (3) When a school district has approval to operate less than 180 school days under 20-9-806, the
22 total ANB must be calculated in accordance with the provisions of 20-9-805.

23 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must
24 be counted as enrollment for one-half day.

25 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1),
26 enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon
27 session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not
28 exceed one-half for each kindergarten pupil.

29 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school
30 days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the

1 pupil resumes attendance prior to the day of the enrollment count.

2 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the
3 ANB calculations.

4 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools
5 of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the
6 schools of the district, except that when:

7 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city
8 or town located in the district and at least 20 miles from any other school of the district, the number of
9 regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the
10 district must receive a basic entitlement for the school calculated separately from the other schools of the
11 district;

12 (ii) a school of the district is located more than 20 miles from any other school of the district and
13 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the
14 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
15 for the school calculated separately from the other schools of the district;

16 (iii) the superintendent of public instruction approves an application not to aggregate when
17 conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to
18 travel, or when any other condition exists that would result in an unusual hardship to the pupils of the
19 school if they were transported to another school, the number of regularly enrolled, full-time pupils of the
20 school must be calculated separately for ANB purposes and the district must receive a basic entitlement
21 for the school calculated separately from the other schools of the district; or

22 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203,
23 20-6-205, or 20-6-208; two or more high school districts consolidate or annex under the provisions of
24 20-6-315 or 20-6-317; or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part
25 4, the ANB and the basic entitlements of the component districts must be calculated separately for a
26 period of 3 years following the consolidation or annexation;

27 (b) a junior high school has been approved and accredited as a junior high school, all of the
28 regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils
29 for ANB purposes;

30 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be

1 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be
2 considered high school pupils for ANB purposes; or

3 (d) a school has not been accredited by the board of public education, the regularly enrolled,
4 full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation
5 purposes, nor will an average number belonging for the nonaccredited school be used in determining the
6 BASE funding program for the district.

7 (9) The district shall provide the superintendent of public instruction with semiannual reports of
8 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by
9 the superintendent."

10

11 NEW SECTION. **Section 4. Effective date -- applicability.** [This act] is effective July 1, 2001, and,
12 for purposes of calculating average number belonging, applies to enrollment counts taken during school
13 fiscal years beginning on or after July 1, 2001.

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